

Message

From: Schwab, Justin [Schwab.Justin@epa.gov]
Sent: 12/5/2018 5:44:36 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: RE: NEW DECISION: Maine WQS litigation - District Court grants EPA's motion for remand w/o vacatur

Ex. 5 DPP / ACP / AWP

From: Fotouhi, David
Sent: Tuesday, December 4, 2018 11:06 PM
To: Schwab, Justin <schwab.justin@epa.gov>
Subject: Re: NEW DECISION: Maine WQS litigation - District Court grants EPA's motion for remand w/o vacatur

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Sent from my iPhone

On Dec 4, 2018, at 10:16 PM, Schwab, Justin <Schwab.Justin@epa.gov> wrote:

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Sent from my iPhone

On Dec 4, 2018, at 11:55 AM, Prabhu, Aditi <Prabhu.Aditi@epa.gov> wrote:

Yesterday, the U.S. District Court for the District of Maine issued an order granting EPA's motion for remand without vacatur in *State of Maine v. Wheeler*. EPA had requested that the court stay the litigation for 9 months so that EPA could complete its administrative process and make final decisions on remand. The court's order stays the litigation for one year, until December 3, 2019.

The three decisions challenged in the litigation are: (1) EPA's interpretation and approval of Maine's fishing designated use in its WQS to include sustenance fishing in the waters in tribal Reservations and trust lands; (2) EPA's approval of provisions in the Maine Implementing Act as a sustenance fishing designated use under the CWA in certain tribal waters; and (3) EPA's disapproval of Maine's human health criteria in its WQS as not sufficiently protective of the sustenance fishing designated uses in Indian waters.

An excerpt of the order is below. We will be engaging in further discussions regarding

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Feel free to give me a call with any questions.

Aditi

Aditi Prabhu
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U.S. Environmental Protection Agency
(202)564-2473

<Maine v. Wheeler, Order on Mtn for Remand (Dec. 3, 2018).pdf>